



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

<b>Bill #</b>	SB0438	<b>Title:</b>	Regulate sale of alcoholic energy drinks
<b>Primary Sponsor:</b>	Juneau, Carol C	<b>Status:</b>	As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$36,206	\$49,196	\$50,117	\$51,037
State Special Revenue	\$6,914	\$9,395	\$9,571	\$9,746
<b>Net Impact-General Fund Balance:</b>	<u>\$36,206</u>	<u>\$49,196</u>	<u>\$50,117</u>	<u>\$51,037</u>

### Description of fiscal impact:

Currently malt beverages with caffeine or other stimulants are taxed as beer. This bill would reclassify malt beverages with caffeine or other stimulants as liquor, which has a higher tax rate than beer and is distributed through the liquor warehouse and agency liquor stores, rather than individual distributors.

### FISCAL ANALYSIS

#### Assumptions:

1. Under current law, malt beverages that contain caffeine or other stimulants are taxed at the same rate as beer, which is taxed on the number of 31-gallon barrels sold in the state. This bill will tax malt beverages that contain caffeine or other stimulants the same as liquor which is based on the wholesale price.

2. The official revenue estimate assumes that there will be 1,018,138 barrels of beer sold in FY 2010 and 1,037,556 barrels of beer sold in FY 2011. They assume a growth rate of 19,418 barrels each fiscal year. This would mean that there are 1,056,974 barrels sold in FY 2012 and 1,076,392 barrels in FY 2013.
3. The Liquor Control Division of the Department of Revenue estimates that malt beverages with caffeine or other stimulants account for about 1/8 of 1% of beer tax revenue.
4. 1/8 of 1% would be equal to 1,273 31-gallon barrels in FY 2010 ( $1,018,138 \times 0.00125 = 1,273$ ), 1,297 barrels in FY 2011, 1,321 barrels in FY 2012 and 1,345 barrels in FY 2013. Because the caffeinated malt beverages would no longer be taxed as beer, there would be a reduction in beer tax collections of \$5,472 in FY 2010 ( $1,273 \times \$4.30 = \$5,472$ ), \$5,577 in FY 2011, \$5,681 in FY 2012 and \$5,786 in FY 2013.
5. Beer tax revenue is distributed 76.74% to the state general fund and 23.26% to the Department of Public Health and Human Services for alcohol and chemical dependency treatment programs. The reduced beer tax revenue would reduce general fund revenue by \$4,200 in FY 2010 ( $\$5,472 \times 76.74\% = \$4,200$ ), \$4,280 in FY 2011, \$4,360 in FY 2012 and \$4,440 in FY 2013. The Department of Public Health and Human Services would receive \$1,273 less in FY 2010 ( $\$5,472 \times 23.26\% = \$1,273$ ), \$1,297 less in FY 2011, \$1,321 less in FY 2012 and \$1,346 less in FY 2013.
6. This bill would tax malt beverages in the same manor as liquor, based on the wholesale price.
7. It is estimated that the average cost for a case of caffeinated malt beverages is \$18.00. It would cost approximately \$30 per case to ship each case to the liquor warehouse for distribution, so the base cost of each case of caffeinated malt beverage would be \$48.00. Each case is assumed to have 24-16 ounce cans. It is assumed that the average price of a 16 ounce can of caffeinated malt beverage is \$2.00 ( $\$48.00 / 24 = \$2.00$ ). Using a base cost of \$48.00 per case of caffeinated malt beverage, the liquor control division estimates that the list price per 16 ounce can of caffeinated malt beverage would be \$3.65. This would increase the retail price by \$1.65 per 16 ounce can. This is an increase of 82.5% ( $1.65 / 2.00 = 0.825$ ).
8. For this fiscal note it is assumed that caffeinated malt beverages have a price elasticity of -1.0. This means that a 10% increase in price will decrease consumption by 10%. The elasticity estimate only shows how consumption changes with price, but this bill would change how malt beverages with caffeine or other stimulants is distributed. If this bill passes, malt beverages with caffeine or other stimulants would only be available at agency liquor stores and bars. The change in consumption from malt beverages with caffeine or other stimulants due to fewer retail locations selling the product is not estimated.
9. Using the elasticity estimate above, because the retail price increases by 82.5%, consumption will decrease by 82.5%. This would mean that there will 223 31-gallon barrels of malt beverage with caffeine or other stimulants sold in FY 2010 ( $1,273 \times 0.175 = 223$ ), 227 barrels in FY 2011, 231 barrels in FY 2012 and 235 barrels in FY 2013.
10. Each barrel of beer has 31 gallons and one gallon has 128 fluid ounces, so there will be 883,744 ounces of malt beverage with caffeine sold in Montana in FY 2010 ( $223 \times 31 \times 128 = 883,744$ ), 900,599 ounces in FY 2011, 917,453 ounces in FY 2012 and 934,308 ounces in FY 2013.
11. This equals 55,234 16 ounce cans of malt beverage with caffeine or other stimulants being sold in FY 2010 ( $883,744 / 16 = 55,234$ ), 56,287 cans in FY 2011, 57,341 cans in FY 2012 and 58,394 cans in FY 2013.
12. The \$1.65 per can includes \$0.46 in excise tax, \$0.29 in license tax and \$0.39 in profit for the liquor division and \$0.51 mark-up for individual liquor stores. Excise tax revenue would be \$25,408 in FY 2010 ( $55,234 \times \$0.46 = \$25,408$ ), \$25,892 in FY 2011, \$26,377 in FY 2012 and \$26,861 in FY 2013. The License tax revenue would be \$16,018 in FY 2010, \$16,323 in FY 2011, \$16,629 in FY 2012 and \$16,934 in FY 2013. The profit for the liquor control division would be \$21,541 in FY 2010, \$21,952 in FY 2011, \$22,363 in FY 2012 and \$22,774 in FY 2013.
13. Liquor warehouse profit and the liquor excise tax are deposited in the state general fund. Profit and liquor excise tax revenue totals \$46,949 in FY 2010 ( $\$25,408 + \$21,541 = \$46,949$ ), \$47,844 in FY 2011, \$48,740 in FY 2012 and \$49,635 in FY 2013.

14. The liquor license tax is deposited 34.5% in the general fund and 65.5% is deposited with the Department of Public Health and Human Services. This means that in FY 2010 \$5,526 of license tax revenue would be deposited in the state general fund ( $\$16,018 \times 34.5\% = \$5,526$ ), \$5,632 in FY 2011, \$5,737 in FY 2012 and \$5,842 in FY 2013. In FY 2010 there would be \$10,492 liquor license tax revenue deposited with the Department of Public Health and Human Services. This amount would be \$10,692 in FY 2011, \$10,892 in FY 2012 and \$11,092 in FY 2013.
15. The table below shows the fiscal impact of removing caffeinated malt beverages from the beer tax and classifying them as liquor if the law is in effect for all of FY 2010.

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
General Fund				
Beer Tax	(\$4,200)	(\$4,280)	(\$4,360)	(\$4,440)
Excise Tax	\$25,408	\$25,892	\$26,377	\$26,861
Profit	\$21,541	\$21,952	\$22,363	\$22,774
License Tax	<u>\$5,526</u>	<u>\$5,632</u>	<u>\$5,737</u>	<u>\$5,842</u>
<b>Net General Fund</b>	<b>\$48,275</b>	<b>\$49,196</b>	<b>\$50,117</b>	<b>\$51,037</b>
DPHHS				
Beer Tax	(\$1,273)	(\$1,297)	(\$1,321)	(\$1,346)
License Tax	<u>\$10,492</u>	<u>\$10,692</u>	<u>\$10,892</u>	<u>\$11,092</u>
<b>Net DPHHS</b>	<b>\$9,219</b>	<b>\$9,395</b>	<b>\$9,571</b>	<b>\$9,746</b>

16. There is no effective date on this bill, so it is assumed that the effective date is October 1, 2009. This is ¼ of the way through FY 2010. The table below shows the fiscal impact for this bill if it is effective October 1, 2009. The FY 2010 figures are ¾ of the numbers in the table above.

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
General Fund				
Beer Tax	(\$3,150)	(\$4,280)	(\$4,360)	(\$4,440)
Excise Tax	\$19,056	\$25,892	\$26,377	\$26,861
Profit	\$16,156	\$21,952	\$22,363	\$22,774
License Tax	<u>\$4,145</u>	<u>\$5,632</u>	<u>\$5,737</u>	<u>\$5,842</u>
<b>Net General Fund</b>	<b>\$36,206</b>	<b>\$49,196</b>	<b>\$50,117</b>	<b>\$51,037</b>
DPHHS				
Beer Tax	(\$955)	(\$1,297)	(\$1,321)	(\$1,346)
License Tax	<u>\$7,869</u>	<u>\$10,692</u>	<u>\$10,892</u>	<u>\$11,092</u>
<b>Net DPHHS</b>	<b>\$6,914</b>	<b>\$9,395</b>	<b>\$9,571</b>	<b>\$9,746</b>

17. This bill would require the liquor warehouse to carry malt beverages with caffeine or other stimulants. Adding products carried by the liquor warehouse is a routine business process and would be handled by existing staff and resources.

	<b><u>FY 2010</u></b> <b><u>Difference</u></b>	<b><u>FY 2011</u></b> <b><u>Difference</u></b>	<b><u>FY 2012</u></b> <b><u>Difference</u></b>	<b><u>FY 2013</u></b> <b><u>Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Revenues:</u></b>				
General Fund (01)	\$36,206	\$49,196	\$50,117	\$51,037
State Special Revenue (02)	\$6,914	\$9,395	\$9,571	\$9,746
<b>TOTAL Revenues</b>	<b>\$43,120</b>	<b>\$58,591</b>	<b>\$59,688</b>	<b>\$60,783</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$36,206	\$49,196	\$50,117	\$51,037
State Special Revenue (02)	\$6,914	\$9,395	\$9,571	\$9,746

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